

REMARKS

Claims 1-9 are pending in this application. By this Amendment, claims 1 and 6 are amended and new claims 7-9 are added. Claim 6 is amended to address a claim objection and a rejection under 35 U.S.C. 112. Claim 1 was amended to remove the phrases "in particular a textile backing" and "in particular centrally" and to correct typographical errors therein. The features removed from claim 1 are retained in new claims 7 and 8.

No new matter is added to the application by this Amendment. Support for new language added to claims 1 can be found in FIG. 1 and in the specification, as originally filed, at, for example, page 2, line 34, page 7, lines 28-30 and page 8, lines 3-11. New claim 7 finds support in claim 1 and within the specification, as originally filed, at, for example, page 3, lines 9 and 10; new claim 8 finds support in claim 1; and new claim 9 finds support in claims 1 and 3.

Reconsideration of the application is respectfully requested.

I. Information Disclosure Statements

The Patent Office alleges that the Information Disclosure Statement (hereinafter "IDS") filed on October 6, 2006 fails to comply with 37 CFR 1.98(a)(2) because a legible copy of each cited foreign patent, namely EP 1 114 113, EP 0 834 442 and EP 0 733 558, were not included with the IDS. Additionally, the Patent Office alleges that the Supplemental IDS filed on January 23, 2007 fails to comply with 37 CFR 1.98(a)(1).

Submitted concurrently herewith is a Second Supplemental IDS that complies with 37 CFR 1.98(a)(1) and 1.98(a)(2). The Second Supplemental IDS

includes all references cited in the IDS and Supplemental IDS along with a legible copy of each of the foreign patents cited in the IDS.

Consideration of the references listed in the Second Supplemental IDS is requested.

II. Claim Objection

Claim 6 was objected to for alleged informalities. Specifically, the Patent Office objected to claim 6 for reciting the typographical error “during the during the” in the claim.

Applicants have amended claim 6 to remove the first occurrence of “during the” from the claim.

Applicants respectfully request withdrawal of the objection to the claim.

III. Rejection Under 35 U.S.C. 112

Claim 6 was rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite. This rejection is respectfully traversed.

The Patent Office alleges that there is insufficient antecedent basis for the feature “the body shell” in line 4 of claim 6.

Claim 6 is amended to replace the phrase “the drying of the body shell” with the phrase “a drying of a body shell”.

Applicants submit that the amendment to claim 6 provides sufficient antecedent basis for the feature “a body shell” and overcomes the rejection of claim 6 under 35 U.S.C. 112, second paragraph.

Thus, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. 112, second paragraph.

IV. Rejections Under 35 U.S.C. §103

A. Independent Claim 1 and Dependent Claims

i. Korchnak et al. in view of Weber, Jr.

Claims 1-4 and 6 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable (a) over U.S. Patent Publication No. 2003/0047268 to Korchnak et al. (hereinafter "Korchnak") in view of U.S. Patent No. 3,450,295 to Weber, Jr. (hereinafter "Weber"), and (b) over Weber in view of Korchnak. These rejections are respectfully traversed.

The Patent Office acknowledges that Korchnak fails to teach a foam body for sealing cracks, but alleges that Weber remedies this deficiency of Korchnak by disclosing that polyurethane coating fills an opening of a tank to repair the tank whereby the polyurethane coating is heated to a range of 65-95°F for expanding the foam body to completely file and/or cover the opening. Additionally, the Patent Office acknowledges that Weber fails to teach or suggest a textile backing layer and an adhesive layer, but alleges that Korchnak remedies these deficiencies of Weber by disclosing a die-cut having a backing layer and an adhesive coating over its full area beneath the crack. Applicants respectfully disagree with these allegations.

Neither Korchnak nor Weber, taken singly or in combination, teaches or suggests a method for permanently obturating holes extending through a metal

sheet or a plastic part of an automobile body. Additionally, Korchnak and Weber, taken singly or in combination, do not teach or suggest a step of fixing an at least partly single-sidedly self-adhesively treated diecut having a backing, which is provided on the adhesively treated side with a non-foamingly unexpanded foam body, said fixing being carried out on the hole in such a way that the unexpanded foam body is located within the hole as required by amended claim 1. Moreover, Korchnak and Weber, taken singly or in combination, fail to teach or suggest a step of subsequently heating the unexpanded foam body in such a way that the foam body foamingly expands, wherein the supply of heat is continued until the foamingly expanded foam body completely fills and/or covers the hole as recited in claim 1.

Korchnak teaches a method for repairing fuel tanks having detected leaks by (a) filling the leaks with an adhesive and allowing the adhesive to cure or (b) applying an adhesive and a patch to the leaks such that the adhesive is interposed between the patch and the tank and allowing the adhesive to cure and bond the patch to the tank (see the Abstract of Korchnak). Weber teaches that a foamed plastic material such as a polyurethane, epoxy or vinyl resin is employed to penetrate holes in metallic tank bottoms to bridge over the underneath side of the hole to form a plug (see the Abstract of Weber).

The holes permanently obturated by the presently claimed method are holes extending through a metal sheet or a plastic part of an automobile body. In contrast Korchnak teaches a method of repairing leaks in fuel tanks and Weber teaches a method of plugging holes in metallic tank bottoms.

The present claims require that the fixing of the at least partly single-sidedly self-adhesively treated diecut be carried out on the hole in such a way that the hole is completely covered by the diecut and the unexpanded foam body is located within the hole. Weber, on the other hand, teaches that the foam, when laid down by the spray gun, begins to cream within a matter of seconds and rises very rapidly to its ultimate height in the order of about one minute of time (see col. 3, lines 25-29 of Weber). Additionally, Weber teaches that the polyurethane foam, when laid down, will penetrate through a corroded opening and into the sub-soil underneath the steel tank bottom (see col. 3, lines 38-42 of Weber). Moreover, Weber discloses that the foam should cover the entire bottom of the tank instead of a specific area with respect to the corroded opening.

Thus, Weber fails to teach or suggest fixing being carried out on the hole in such a way that the hole is completely covered by the diecut and the unexpanded foam body is located within the hole because Weber's foam begins to cream immediately after being laid down and enters the corroded opening in a creamed or expanded state.

Weber further fails to teach or suggest the step of subsequently heating the unexpanded foam body in such a way that the foam body foamingly expands, wherein the supply of heat is continued until the foamingly expanded foam body completely fills and/or covers the hole. To the contrary, Weber does not teach or suggest any steps of heating the foam, let alone teach or suggest a step of subsequently heating the foam to foamingly expand the unexpanded foam body which is located within the hole. At best, Weber teaches that it is desirable that the

steel tank bottom be at room temperature. Desiring that the steel tank bottom of Weber be at room temperature does not teach or suggest an affirmative step of making the steel tank bottom warmer or hotter as alleged by the Patent Office. Moreover, Weber fails to teach or suggest that the foam is at room temperature, is heated in any manner or is continued to be heated until the foam expands to completely fill and/or cover the hole. Thus, Weber clearly fails to teach or suggest the step of subsequently heating the unexpanded foam body as required by claim 1.

Because these features of independent claim 1 are not taught or suggested by Korchnak and Weber, taken singly or in combination, these references would not have rendered the features of independent claims 1 and its dependent claims obvious to one of ordinary skill in the art.

For at least these reasons, claims 1-4 and 6 are patentable over Korchnak and Weber. Thus, withdrawal of the rejections under 35 U.S.C. 103(a) are respectfully requested.

ii. Pierrot et al. in view of Ogawa

Claims 1-4 and 6 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 5,852,854 to Pierrot et al. (hereinafter "Pierrot") in view of U.S. Patent No. 6,103,047 to Ogawa. This rejection is respectfully traversed.

The Patent Office acknowledges that Pierrot fails to teach a textile backing layer and expanding foam body, but alleges that Ogawa remedies this deficiency

of Pierrot by disclosing urethane elastomer having desired shape, a textile material as a backing layer and a step of heating the foam body with gasification reaction. Applicants respectfully disagree with these allegations.

Ogawa does not remedies the deficiencies of Pierrot as alleged by the Patent Office. The present claims require that the fixing of the at least partly single-sidedly self-adhesively treated diecut be carried out on the hole in such a way that the non-foamingly unexpanded foam body is located within the hole. The Patent Office alleges that the urethane elastomer teaches or suggests the non-foamingly unexpanded foam body of the present claims. However, to the contrary, Ogawa teaches that the urethane elastomer (a) comprises a non-foamable type of reactive mixture (see the Abstract of Ogawa), (b) is characterized in that the gasification reaction is restrained not to foam so that the urethane elastomer is directly solidified (see col. 8, lines 52-55 of Ogawa), and (c) is a liquid urethane elastomer (see col. 9, lines 13 and 14 of Ogawa).

Thus, Ogawa fails to teach or suggest fixing being carried out on the hole in such a way that the unexpanded foam body is located within the hole because Ogawa's urethane elastomer begins in a liquid state and is non-foamable and subsequently undergoes a gasification reaction which is restrained not to foam so that the urethane elastomer is directly solidified.

Because Ogawa does not disclose a nonfoamingly unexpanded foam body or a foam body which is foamable, Ogawa also does not teach or suggest the step of subsequently heating the unexpanded foam body in such a way that the foam body foamingly expands, wherein the supply of heat is continued until the

foamingly expanded foam body completely fills and/or covers the hole.

Thus, neither Pierrot nor Ogawa, taken singly or in combination, teaches or suggests a method having a step of fixing an at least partly single-sidedly self-adhesively treated diecut having a backing, which is provided on the adhesively treated side with a non-foamingly unexpanded foam body, said fixing being carried out on the hole in such a way that the unexpanded foam body is located within the hole as required by amended claim 1. Moreover, Pierrot and Ogawa, taken singly or in combination, fail to teach or suggest a step of subsequently heating the unexpanded foam body in such a way that the foam body foamingly expands, wherein the supply of heat is continued until the foamingly expanded foam body completely fills and/or covers the hole as recited in claim 1.

Because these features of independent claim 1 are not taught or suggested by Pierrot and Ogawa, taken singly or in combination, these references would not have rendered the features of independent claims 1 and its dependent claims obvious to one of ordinary skill in the art.

For at least these reasons, claims 1-4 and 6 are patentable over Pierrot and Ogawa. Thus, withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

iii. Smith et al. in view of Ogawa

Claims 1-4 and 6 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 5,166,007 to Smith et al. (hereinafter "Smith") in view of Ogawa. This rejection is respectfully traversed.

The Patent Office acknowledges that Smith fails to teach a foam body and material for an adhesive layer, but alleges that Ogawa remedies this deficiency of Smith. Applicants respectfully disagree with these allegations.

As discussed above with respect to the rejection relying on Pierrot in view of Ogawa, Ogawa fails to remedy the deficiencies of Smith for the same reasons, namely, because Ogawa's urethane elastomer begins in a liquid state, is non-foamable and subsequently undergoes a gasification reaction which is restrained not to foam so that the urethane elastomer is directly solidified.

Thus, neither Smith nor Ogawa, taken singly or in combination, teaches or suggests a method having a step of fixing an at least partly single-sidedly self-adhesively treated diecut having a backing, which is provided on the adhesively treated side with a non-foamingly unexpanded foam body, said fixing being carried out on the hole in such a way that the unexpanded foam body is located within the hole as required by amended claim 1. Moreover, Smith and Ogawa, taken singly or in combination, fail to teach or suggest a step of subsequently heating the unexpanded foam body in such a way that the foam body foamingly expands, wherein the supply of heat is continued until the foamingly expanded foam body completely fills and/or covers the hole as recited in claim 1.

Because these features of independent claim 1 are not taught or suggested by Smith and Ogawa, taken singly or in combination, these references would not have rendered the features of independent claims 1 and its dependent claims obvious to one of ordinary skill in the art.

For at least these reasons, claims 1-4 and 6 are patentable over Smith and

Ogawa. Thus, withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

iv. **Smith et al. in view of Preston**

Claims 1, 2 and 6 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Smith in view of U.S. Patent No. 5,118,454 to Preston. This rejection is respectfully traversed.

The Patent Office acknowledges that Smith fails to teach a foam body, but alleges that Preston remedies this deficiency of Smith because Preston discloses polyurethane foam as an expanded material for repairing voids and allowing the material to expand to fill the sheath so that the expanded material substantially conforms to the void and fills the void. Applicants respectfully disagree with these allegations.

Preston teaches a method for repairing voids in finished urethane foam products by injecting a urethane or silicone elastomer into a sheath to fill the sheath to conform to the void and subsequently sealing off the hole with a suitable plug which may be sanded flush with the retainer wall outer surface (see col. 1, lines 60-64 of Preston). More specifically, Preston teaches that a urethane or high density silicone elastomer is injected into the sheath, wherein the elastomer expands to conform to the shape of the void (see col. 2, lines 32-36 of Preston).

Preston does not remedy the deficiencies of Smith because Preston does not teach or suggest a step of subsequently heating urethane or high density silicon elastomer within the sheath to expand the elastomer and continuing the

heating until the elastomer foamingly expands to completely fill and/or cover the void. The elastomer of Preston expands immediately after injection into the sheath to conform to the shape of the void without any subsequent heating or continued heating.

Thus, neither Smith nor Preston, taken singly or in combination, teaches or suggests a method having a step of subsequently heating the unexpanded foam body in such a way that the foam body foamingly expands, wherein the supply of heat is continued until the foamingly expanded foam body completely fills and/or covers the hole as recited in claim 1.

Because these features of independent claim 1 are not taught or suggested by Smith and Preston, taken singly or in combination, these references would not have rendered the features of independent claims 1 and its dependent claims obvious to one of ordinary skill in the art.

For at least these reasons, claims 1, 2 and 6 are patentable over Smith and Preston. Thus, withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

B. Dependent Claim 5

i. Korchnak et al. and Weber, Jr. in view of Ashcroft et al.

Claim 5 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Korchnak in view of Weber and further in view of U.S. Patent No. 3,689,320 to Ashcroft et al. (hereinafter "Ashcroft"). This rejection is respectfully traversed.

The Patent Office acknowledges that Korchnak and Weber fail to teach or suggest weft count or warp count of woven fabrics, but introduces Ashcroft as allegedly teaching woven cotton fabric mechanical damping material having 72 wrap count and 60 weft count. Applicants respectfully disagree with these allegations.

The Examiner relies on Ashcroft for specific weft and warp counts. No specific weft and warp counts could possibly overcome the deficiencies of the Korchnak and Weber discussed above with respect to claim 1 from which claim 5 depends.

Accordingly, the rejection of claim 5 under 35 U.S.C. 103(a) as obvious over Korchnak and Weber in view of Ashcroft should now be withdrawn.

ii. Pierrot et al. and Ogawa in view of Ashcroft et al.

Claim 5 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Pierrot in view of Ogawa and further in view of Ashcroft. This rejection is respectfully traversed.

The Patent Office acknowledges that Pierrot and Ogawa fail to teach or suggest weft count or warp count of woven fabrics, but introduces Ashcroft as allegedly teaching woven cotton fabric mechanical damping material having 72 wrap count and 60 weft count. Applicants respectfully disagree with these allegations.

The Examiner relies on Ashcroft for specific weft and warp counts. No specific weft and warp counts could possibly overcome the deficiencies of the

Pierrot and Ogawa discussed above with respect to claim 1 from which claim 5 depends.

Accordingly, the rejection of claim 5 under 35 U.S.C. 103(a) as obvious over Pierrot and Ogawa in view of Ashcroft should now be withdrawn.

iii. Smith et al. and Ogawa in view of Ashcroft et al.

Claim 5 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Smith in view of Ogawa and further in view of Ashcroft. This rejection is respectfully traversed.

The Patent Office acknowledges that Smith and Ogawa fail to teach or suggest weft count or warp count of woven fabrics, but introduces Ashcroft as allegedly teaching woven cotton fabric mechanical damping material having 72 wrap count and 60 weft count. Applicants respectfully disagree with these allegations.

The Examiner relies on Ashcroft for specific weft and warp counts. No specific weft and warp counts could possibly overcome the deficiencies of the Smith and Ogawa discussed above with respect to claim 1 from which claim 5 depends.

Accordingly, the rejection of claim 5 under 35 U.S.C. 103(a) as obvious over Smith and Ogawa in view of Ashcroft should now be withdrawn.

V. New Claim

Applicants take this opportunity to submit that new claim 9 is also not

anticipated and/or rendered obvious in view of the teachings of the cited references.

None of Korchnak, Weber, Ashcroft, Pierrot, Ogawa, Smith and Preston, taken singly or in combination, teaches or suggests the steps of fixing an at least partly single-sidedly self-adhesively treated diecut and heating the unexpanded foam body as specifically defined in new independent claim 9. Moreover, none of Korchnak, Weber, Ashcroft, Pierrot, Ogawa, Smith and Preston, taken singly or in combination, teaches or suggests a foam body composed of EVA foam as required by claim 9.

For at least these reasons, new claim 9 is not anticipated by and is patentable over the cited references.

VI. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-9 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Early and favorable action is earnestly solicited.

CONDITIONAL PETITION FOR EXTENSION OF TIME

If entry and consideration of the amendments above requires an extension

of time, Applicants respectfully request that this be considered a petition therefor.
The Commissioner is authorized to charge any fee(s) due in this connection to
Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit
Account No. 14-1263.

Respectfully submitted,
NORRIS MC LAUGHLIN & MARCUS, P.A.

By /Brian C. Anscomb/
Brian C. Anscomb
Reg. No. 48,641
875 Third Avenue, 18th Floor
New York, New York 10022
Phone: (212) 808-0700
Fax: (212) 808-0844